

Office of Tribal Relations, Office of the Secretary
The Council for Native American Farming and Ranching
CHARTER

1. Committee's Official Designation

The Council for Native American Farming and Ranching

2. Authority

Section XII.A of the Settlement Agreement that resolves *Keepseagle v. Vilsack*, 99-CV-03119 (D.D.C.) approved by the United States District Court for the District of Columbia requires the Secretary of Agriculture to establish The Council for Native American Farming and Ranching (hereinafter referred to as the "Council"). The Secretary establishes the Council pursuant to the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. USDA reserves to itself all discretion required by FACA.

3. Objectives and Scope of Activities

Members shall consider ways to improve the delivery of farm loan programs to Native American farmers and ranchers. The Council will also provide advice to the Secretary of Agriculture consistent with the established purposes of the Council and on relevant related issues as deemed appropriate.

4. Description of Duties

The purpose of this Council is: (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA farm loan programs; and (2) to transmit recommendations concerning any changes to FSA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through the farm loan program through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA farm loan programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American

producers; and(6) to address other Native American related issues as deemed appropriate.

5. Agency or Official to Whom the Committee Reports

The Council for Native American Farming and Ranching reports to the Secretary of Agriculture.

6. Support

Farm Service Agency (FSA) is responsible for providing support and staffing for the Council.

7. Estimated Annual Operating Costs and Staff Years

Members may receive reimbursement for travel expenses and per diem in accordance with USDA travel regulations for attendance at Council functions. Council members who represent the interests of Native American farmers or ranchers will be paid an amount not less than \$100 per day for time spent away from their employment or farming or ranching operation, subject to the availability of funds. If there is a shortfall of appropriated funds for the Council for the payment of travel expenses or honoraria, USDA will notify Council members as soon as reasonably practicable. Estimated annual operating expenses are \$70,000 and .30 staff years.

8. Designated Federal Officer

a. The Designated Federal Officer (DFO) is designated as the Director of the Office of Tribal Relations in the Office of the Secretary.

b. The DFO or a designee will be present at all Council meetings. The DFO will approve or call all of the Council's meetings, prepare and approve all meeting agendas, attend all committee meetings, adjourn any meeting when the DFO determines adjournment to be in the public interest, and chair meetings when directed to do so by the Secretary or his designee.

c. USDA will schedule Council meetings approximately two times each fiscal year and determine the locations of those meetings. If the USDA or Council determines that a meeting cannot be held as scheduled, the USDA will re-schedule the meeting for a date within the fiscal year if such a date is appropriate. The Council shall establish procedures for its operation.

d. A minimum of 8 members shall be present or participating by telephone or other electronic means such as video conferencing to constitute a quorum. At

least one of those eight persons must be a Council member who represents USDA.

- e. In the event that Council meetings require travel, the USDA will reimburse as established by the terms of the Settlement Agreement, Council members for reasonable travel expenses consistent with federal regulations and agency policy. Council members who represent the interests of Native American farmers and ranchers will be paid an amount not less than \$100 per day for time spent away from their employment or farming or ranching operation, subject to the availability of funds. If there is a shortfall of appropriated funds for the Council for the payment of travel expenses or honoraria, USDA will notify Council members as soon as reasonably practicable.

9. Estimated Number and Frequency of Meetings

The Council shall meet approximately two times per fiscal year. As required by the Federal Advisory Committee Act (FACA), the Council will hold open meetings unless the Secretary determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of the Government in the Sunshine Act (5 U.S.C. § 552b).

10. Duration

The duration of the Council shall be continuing.

11. Termination

This charter will be in effect for two (2) years from the date it is filed with Congress. After the initial two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA. The settlement agreement provisions creating the Council will expire on April 28, 2016. The Council will be considered for authorization until April 28, 2016 to comply with the terms of the settlement and may be extended thereafter by act of the Secretary.

12. Membership and Designation

The Council by the terms of the Settlement Agreement is to be comprised of Native American leaders and senior officials of the Farm Service Agency and USDA. Qualified Native American leaders will be nominees who, at a minimum, have experience with farming and/or ranching, have experience in dealing with USDA farm programs, and have an understanding of the needs and challenges facing Native American farmers and ranchers. Native American leaders may include persons who represent the interests of Native American tribes or Native

American organizations. The term “Native American leaders” is not limited to elected Tribal representatives or members or persons with Native American ancestry.

The Council shall consist of 15 members appointed by the Secretary of Agriculture.

- a. Of the 15 members, no fewer than eleven will be selected to represent the interests of Native American farmers and ranchers. Class Counsel in the Keepseagle v. Vilsack litigation are allowed, as per the terms of the Settlement Agreement, to nominate up to eleven individuals to fill the slots designated for members who represent the interests of Native American farmers and ranchers. The Secretary will select no fewer than five members of the Council from the individuals nominated by Class Counsel, as long as Class Counsel does not fail to nominate at least five individuals to serve on the Council and at least five individuals nominated by Class Counsel meet the requirements in FACA and regulations applicable for service on a committee created under FACA. All candidates proposed by Class Counsel will be given due consideration by the Secretary. If any candidate proposed by Class Counsel is disqualified by the Secretary, the Class Counsel shall have the opportunity to nominate a replacement candidate.
- b. In addition to Native American farmers or ranchers and persons who represent the interests of Native American farmers or ranchers, members shall also include representatives from the following groups:
 - (1) The Farm Service Agency Administrator or his or her delegate;
 - (2) The Director, Office of Tribal Relations or his or her delegate;
 - (3) The Assistant Secretary for Civil Rights or his or her delegate;
 - (4) The Deputy Administrator for Farm Loan Programs or his or her delegate
- c. In the event these USDA job titles change or are eliminated during the Term of the Settlement Agreement (five years from the date of final approval by the Court), these roles will be filled by other senior management officials appointed by the Secretary.
- d. Members shall be appointed by the Secretary and shall serve no longer than six (6) years. The Committee shall be composed of not more than 15 members and may include, but not be limited to:
 - (1) Native American farmers or ranchers who have participated in USDA loan or payment programs;

- (2) Representatives of organizations with a history of working with Native American farmers or ranchers;
- (3) Civil rights professionals;
- (4) Representatives of tribal governments with demonstrated experience working with Native American farmers or ranchers; and/or
- (5) Such other persons as the Secretary considers appropriate.

e. The members of the Council shall elect a Chairperson.

f. This Council will be fairly balanced in its membership in terms of the points of view represented and the functions to be performed. Pursuant to 7 U.S.C. § 2283(c), no person other than an officer or employee of the Department of Agriculture may serve for more than six consecutive years on an advisory committee, unless authorized by the Secretary.

g. Equal opportunity practices in accordance with USDA policies will be followed in all appointments to the Council. To ensure that the recommendations of the Council have taken into account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women and persons with disabilities.

h. The USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program.

i. Of these members, one member will become the chairperson by vote of the full Council membership and that person will be an individual recognized for their ability to lead a group in a fair and focused manner and who has been briefed on the mission of this Council. A co-chairperson may be assigned, especially to facilitate their transition to become the chairperson in the future.

j. Ethics Statement

To maintain the highest levels of honesty, integrity and ethical conduct, no Council or Subcommittee member shall participate in any "specific party matters" (i.e., matters that are narrowly focused and typically involve specific transactions between identified parties) such as a lease, license, permit, contract, claim, grant, agreement, or related litigation with the Department in which the member has a direct or indirect financial interest. This includes the requirement for Council or Subcommittee members to immediately disclose to the DFO (for discussion with USDA's Office of Ethics) any specific party matter in which the

member's immediate family, relatives, business partners, or employer would be directly seeking to financially benefit from the Council's recommendations.

All members will receive ethics training to identify and avoid any actions that would cause the public to question the integrity of the Council's advice and recommendations. Members who are appointed as "Representatives" are not subject to Federal ethics laws because such appointment allows them to represent the point(s) of view of a particular group, business sector or segment of the public.

Members appointed as "Special Government Employees" (SGEs) are considered to be intermittent Federal employees and are thus subject to Federal ethics laws. SGE's are appointed due to their personal knowledge, academic scholarship, background or expertise. No SGE may participate in any activity in which the member has a prohibited financial interest. Appointees who are SGEs are required to complete and submit a Confidential Financial Disclosure Report (OGE Form 450) via the FDonline e-filing database system. To ensure the highest level of compliance with applicable ethical standards USDA will provide ethics orientation training to SGEs on their appointment or reappointment date each year. The provisions of these paragraphs are not meant to exhaustively cover all Federal ethics laws and do not affect any other statutory or regulatory obligations to which advisory committee members are subject.

13. Subcommittees

The DFO has the authority to create subcommittees and membership on the subcommittees should be approved by the DFO. Subcommittees must report back to the Council, and must not provide advice or work products directly to the Secretary. The process for determining membership balance of subcommittees is the same as the process for the Council.

14. Recordkeeping

The records of this Council, formally and informally established subcommittees, or other subgroups of the Council, shall be handled in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

15. Filing Date

April 14, 2014